

**SUBCHAPTER I : UNDERGROUND STORAGE TANK CONTRACTOR
REGISTRATION AND INSTALLER LICENSING**

§334.401. Certificate of Registration for UST Contractor.

(a) After April 1, 1990, no person shall engage in the installation, repair, or removal of an underground storage tank without possessing a valid certificate of registration.

(b) A partnership or joint venture need not register in its own name if each partner or the joint venture is properly registered.

(c) The certificate of registration number issued pursuant to §334.403 of this title (relating to Issuance of Certificate of Registration) must be prominently displayed on all bids, proposals, offers, and installation drawings.

§334.402. Application for Certificate of Registration.

Any person as defined in §334.412 of this title (relating to Definitions) who engages in the installation, repair, or removal of an underground storage tank shall meet the following application requirements in order to obtain a certificate of registration.

(1) A person shall apply for a certificate of registration on a form approved by the executive director.

(2) The application for certificate of registration shall include:

(A) the applicant's business name, business mailing address and telephone number, and permanent physical address;

(B) the business representative's name and title;

(C) the address, telephone number, and business representative for any branch office within the State of Texas which will be operating under the requested certificate of registration;

(D) documentation of financial assurance, including:

(i) evidence of commercial liability insurance designating the Texas Water Commission as the certificate holder in an amount of not less than \$1 million and of a type approved by the executive director; and a financial statement prepared in conformity with accounting principles as defined by the American Institute of Public Accountants, indicating an applicant's current net worth of not less than \$25,000; or

(ii) other evidence of financial assurance which is determined by the executive director to be sufficient for the purposes of this section;

(E) documentation of quality of performance including one of the following:

(i) sworn statements, on forms approved by the executive director, from at least three persons (references), not related by blood or marriage, who have engaged the applicant within the previous 12 months to perform: UST installations, repairs, or removals; underground utility construction; or other engineering construction. These statements shall attest to the applicant's business integrity and levels of performance. Such statements shall also include a description of the type of construction which was performed by the applicant; or

(ii) a written explanation indicating good cause as determined by the executive director for not providing the sworn statements required in clause (i) of this subparagraph. The explanation shall include a detailed description of at least three case histories of typical UST construction activities performed by the applicant during the previous 12 months; or

(iii) other documentation of quality of performance which is determined by the executive director to be sufficient for the purposes of this section;

(F) a sworn statement from the applicant attesting to the accuracy of the information provided on the application, which has been notarized.

§334.403. Issuance of Certificate of Registration.

(a) An application for a certificate of registration shall be accepted for processing upon commission receipt of a properly completed application as required by §334.402 of this title (relating to Application for Certificate of Registration), and fees of \$150 (\$50 application fee and \$100 certificate issuance fee) required under §334.406 of this title (relating to Fee Assessments for Certificate Registration). The \$100 issuance fee shall be refunded if the application is withdrawn or denied.

(b) Within 30 days of receipt of an application, the executive director shall evaluate the application for completeness and, if necessary, provide written comments to the applicant noting any additional information which is required for processing. The executive director will forward the written comments by certified mail return receipt requested. The applicant will have 30 days from date of delivery of the executive director's written comments to submit the requested information, after which time the \$100 issuance fee will be returned and the certificate of registration denied without prejudice.

(c) Within 30 days of receipt of a properly completed application, the executive director shall either issue a certificate of registration or deny the application.

(d) A certificate of registration issued under this subchapter is not transferable, and shall be renewed annually as prescribed in §334.404 of this title (relating to Renewal of Certificate of Registration).

§334.404. Renewal of Certificate of Registration.

(a) All certificates of registration shall expire one year from the original date of issuance or from the last date of renewal.

(b) The commission shall notify each registered contractor in writing of the impending registration expiration at least 60 days prior to the expiration of the certificate of registration.

(c) The executive director shall provide application forms for renewal of a certificate of registration.

(d) A properly completed application for renewal shall be submitted to the executive director at least 30 days prior to the expiration date of the certificate of registration. The current certificate of registration shall be valid until the executive director notifies the applicant of renewal or denial of the submitted renewal application, provided a properly completed application for renewal was submitted at least 30 days prior to the expiration date of the certificate of registration.

(e) The application must be accompanied by the renewal fee prescribed by §334.406 of this title (relating to Fee Assessments for Certificate of Registration), and documentation of financial assurance as prescribed by §334.402(2)(D) of this title (relating to Application for Certificate of Registration).

(f) The contractor shall reapply for the issuance of a certificate of registration as prescribed by §334.402 of this title (relating to Application for Certificate of Registration) if the certificate is not renewed earlier than one year after the expiration date of the certificate.

(g) Upon proper completion of the certificate renewal process, the executive director shall issue a certificate indicating the expiration date.

§334.405. Denial of Certificate of Registration.

The executive director may deny a certificate of registration or request for renewal of certificate for the following grounds:

(1) when an applicant fails to submit the required documentation as required by §334.402 of this title (relating to Application for Certificate of Registration);

(2) when an applicant fails to pay the appropriate fee as required under §334.406 of this title (relating to Fee Assessments for Certificate of Registration);

(3) when an applicant submits an application with fraudulent or deceptive information; or

(4) for other cause(s) which in the opinion of the executive director constitute adequate ground(s) for denial.

§334.406. Fee Assessments for Certificate of Registration.

The fees for certificate of registration are as follows.

(1) The following fee schedule shall apply for the registration of underground storage tank contractors:

(A) application fee - \$50;

(B) issuance fee - \$100;

- (C) annual renewal fee - \$75;
- (D) duplicate certificate of registration - \$10;
- (E) application to change certificate of registration - \$70;
- (F) late renewal fee -- assessed in accordance with Chapter 12 of this title (relating to Payment of Fees).

(2) A certificate renewal application shall be considered late when received by the executive director after the expiration date of the certificate, and shall be subject to the late renewal fee.

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§334.407. Other Requirements for Certificate of Registration.

(a) All registered contractors shall notify the executive director in writing within 30 days of any change which occurs during the validated registration year. Such changes shall include, but are not limited to:

- (1) change of business name, address, or telephone number;
- (2) change of physical address;
- (3) change in status of insurance;
- (4) change of business representative;
- (5) permanent cessation of underground storage tank (UST) business or UST activities;
- (6) a filing for reorganization or protection under federal bankruptcy laws;
- (7) change of branch office, address, or telephone number.

(b) A registered UST contractor is required to maintain such financial responsibility required by §334.402 of this title (relating to Application for Certificate of Registration) throughout the period that such contractor holds a valid certificate of registration from the commission.

(c) A UST contractor subject to the provisions of this subchapter employed or otherwise engaged by a UST owner or operator (or by any other person representing to be the UST owner or operator) to conduct the installation, repair, or removal of an UST, shall comply with all applicable technical standards of Subchapter C of this chapter (relating to Technical Standards) and Chapter 313 of this title (relating to the Edwards Aquifer).

(d) Compliance with the provisions of this subchapter by a registered contractor shall not relieve such contractor from the responsibility of compliance with all applicable regulations legally promulgated by the United States Environmental Protection Agency, United States Occupational Safety and Health

Administration, United States Department of Transportation, Texas Air Control Board, Texas Department of Health, State Board of Insurance (including state fire marshal), Railroad Commission of Texas, Texas Department of Agriculture, State Comptroller, Texas Department of Public Safety, Texas Water Commission, and other federal, state, and local governmental agencies or entities having appropriate jurisdiction.

§334.408. Exception to Registration Requirements.

The certificate of registration shall not be required for persons or companies who conduct installations, removals, or repairs of underground storage tanks systems when such systems are completely exempt from regulation under §334.3(a) of this title (relating to Statutory Exemptions), or completely excluded from regulation under §334.4(a) of this title (relating to Commission Exclusions). Persons or companies who conduct installations, removals, or repairs of underground storage tank systems regulated under Chapter 313 of this title (relating to Edwards Aquifer) are not exempt from the contractor registration requirements of this subchapter.

§334.409. Revocation, Suspension, or Reinstatement of Certificate of Registration and License.

(a) If the executive director determines good cause exists to suspend or revoke the certificate of registration of a contractor, the executive director shall request that the commission schedule a hearing before the hearing examiner or the commission. Such hearing shall be held only after proper notice has been provided to the certificate holder. The commission may suspend or revoke the certificate if the commission finds that the holder of the certificate was responsible for violating the provisions of this chapter, for falsifying any information or documents submitted to the executive director, or for other good cause.

(b) A certificate may be suspended for a period of up to one year, depending upon the seriousness of the offense(s). A certificate is revoked automatically upon a second suspension. At the request of the certificate holder, or for other good cause shown, the certificate may be suspended indefinitely by the commission.

(c) A certificate shall be revoked for a period of one year after which the holder of the certificate may reapply for reinstatement pursuant to the requirements of §334.402 of this title (relating to Application for Certificate of Registration). If a certificate is revoked a second time, the revocation shall be permanent. The holder of a certificate which has been revoked for a period of one year shall not have to meet the application requirement of §334.402(2)(E) of this title (relating to Application for Certificate of Registration).

§334.410. Notice of Hearings.

(a) Notice for any hearing required by §334.409 of this title (relating to Revocation, Suspension or Reinstatement of Certificate) shall be issued not less than 20 days prior to the hearing.

(b) Transmittal of the notice shall be by certified mail, return receipt requested.

(c) Persons to be notified include, but are not limited to, the following:

(1) the applicant, or certificate holder;

(2) the complainant (if any); and

(3) any other person who may be affected by the outcome of the hearing, as determined by the executive director.

§334.411. Type of Hearing.

Any hearing related to the suspension or revocation of a certificate of registration is subject to the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a).

§334.412. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

Business representative - A person (e.g., proprietor, senior partner, president, or designated representative of a company) who shall be responsible for compliance with this subchapter.

Certificate of registration - The document issued to an underground storage tank contractor authorizing same to engage in the underground storage tank business in the State of Texas.

Commission - The Texas Water Commission.

Critical junctures - In the case of an installation, repair, or removal of an underground storage tank system, all of the following steps:

(A) preparation of the tank bedding immediately prior to receiving the tank;

(B) setting of the tank and the piping, including placement of any anchoring devices, backfill to the level of the tank, and strapping, if any;

(C) connection of piping systems to the tank;

(D) all pressure testing of the underground storage tank, including associated piping, performed during the installation;

(E) completion of backfill and filling of the excavation;

(F) any time during the repair in which the piping system is connected or reconnected to the tank;

(G) any time during the repair in which the tank or its associated piping is tested; and

(H) any time during the removal of the tank.

Engineering construction - That construction designed by civil and mechanical engineers, as opposed to building construction which is designed by architectural engineers.

Executive director - The executive director of the Texas Water Commission.

Installation - The installation of underground storage tanks and ancillary equipment, including, but not limited to, the following activities:

(A) installation of new or previously used tanks at a new facility, and the addition or replacement of tanks at an existing facility;

(B) installation of new or replacement piping for new or existing tanks;

(C) addition of secondary containment equipment for new or existing tanks or piping;

(D) addition or replacement of the following types of equipment at a new or existing UST facility:

(i) spill and overfill prevention equipment, as required in §334.51 of this title (relating to Spill and Overfill Prevention and Control);

(ii) Equipment or devices which are permanently installed for the purpose of providing release detection or release monitoring as required for compliance with §334.50 of this title (relating to Release Detection), except:

(I) observation wells or monitoring wells (excluding equipment and devices therein) constructed by a well driller who possesses the appropriate license required by the Texas Water Well Drillers Board pursuant to the Water Well Drillers Act (Texas Civil Statutes, Article 7621e, Water Auxiliary Laws); or

(II) any equipment temporarily installed solely for the purpose of conducting a tank or piping tightness test, as defined in §334.2 of this title (relating to Definitions), except when a tightness test is a prescribed element of a critical juncture of an installation, repair or removal. Temporarily in this context means the reasonable amount of time required to attach the equipment, make the tests, and remove the equipment, under the given conditions at the site;

(E) installation or replacement of anchoring systems designed to prevent tank flotation;

(F) installation or replacement of vent lines at new or existing UST facilities;

(G) installation or replacement of submersible pumping systems at new or existing UST facilities; and

(H) installation or replacement of any underground Stage I or Stage II vapor recovery systems.

Installer - A person who participates in or supervises the installation, repair, or removal of underground storage tanks.

License - The document issued to an installer or on-site supervisor authorizing same to engage in the underground storage tank business in the State of Texas.

On-site supervisor -

(A) A professional engineer registered to practice in the State of Texas who has met the licensing requirements of this subchapter; or

(B) An individual with at least two years of active experience in the vocation of installation, removal, or repair of underground storage tanks, underground utilities, or other engineering construction in the State of Texas, and who meets the licensing requirements of this subchapter.

Operator - Any person in control of, or having responsibility for, the daily operation of an underground storage tank system.

Owner - Any person who currently holds legal possession or ownership of a total or partial interest in the underground storage tank system. For the purposes of this chapter, where the actual ownership of an UST system is either uncertain, unknown, or in dispute, the fee simple owner of the surface estate where the UST is located shall be considered the UST system owner, unless the owner of the surface estate can demonstrate by appropriate documentation (deed reservation, invoice, bill of sale, etc.) or by other legally acceptable means that the UST system is owned by others. The term "owner" does not include a person who holds an interest in an UST system solely for financial security purposes unless, through foreclosure or other related actions, the holder of such security interest has taken legal possession of the UST system.

Person - An individual, trust, firm, joint-stock company, corporation, government corporation, partnership, association, state, municipality, commission, political subdivision of a state, interstate body, a consortium, joint venture, commercial entity, or the United States Government.

Removal - The process of removing and disposing of an underground storage tank that is no longer in service, or the process of abandoning an underground storage tank in place after purging the tank of vapors and filling the vessel of the tank with a solid inert material, or the change-in-service of an UST, as defined in §334.2 of this title (relating to Definitions).

Repair - The modification or correction of an underground storage tank and ancillary equipment. The term does not include:

(A) relining an underground storage tank through the application of epoxy resins or similar materials;

(B) the performance of a tightness test to ascertain the integrity of the tank, except when a tightness test is a prescribed element of a critical juncture of an installation, repair, or removal;

(C) the maintenance and inspection of cathodic protection devices by a corrosion expert or corrosion technician;

(D) emergency actions to halt or prevent leaks or ruptures; or

(E) minor maintenance on ancillary aboveground equipment.

Underground storage tank (or UST) - Any one or combination of underground tanks and any connecting underground pipes used to contain an accumulation of regulated substances, the volume of which, including the volume of the connecting underground pipes, is 10% or more beneath the surface of the ground.

Underground storage tank business (or UST business) - A business whose particular field of endeavor relates to the installation, removal, or repair of underground storage tanks.

Underground storage tank contractor (or UST contractor) - A person or business entity that offers to undertake, represents itself as being able to undertake, or does undertake the installation, repair, or removal of an underground storage tank.

Underground utilities - Refers to the installation of public underground water, sanitary sewer, or storm sewer construction. This does not include private underground pipe systems (water or sewer piping), power or communication cables, or natural gas lines.

§334.413. License for Installers and On-Site Supervisors.

A license shall not be required for installers and on-site supervisors as defined in §334.412 of this title (relating to Definitions) until such time as rules are adopted by the commission which define the requirements necessary for the issuance of such license.

§334.414. License for Installers and On-Site Supervisors.

(a) Any installer or on-site supervisor as defined in §334.412 of this title (relating to Definitions) shall hold a valid License A, License B, or both, pursuant to this subchapter.

(b) After December 1, 1990, no person shall supervise the installation, removal, or repair of an underground storage tank system unless that person holds a valid license issued by the commission pursuant to this subchapter enabling that person to supervise the installation, repair, or removal of an underground storage tank.

(c) After December 1, 1990, no person shall participate in the installation, removal, or repair of an underground storage tank system unless:

(1) that person holds a valid license issued by the commission pursuant to this subchapter enabling that person to supervise the installation, repair, or removal of an underground storage tank; or

(2) that person is under the direct, on-site supervision of a licensed installer or on-site supervisor as described in subsection (b) of this section, provided that a licensed installer or on-site supervisor shall be present during all critical junctures, as prescribed in subsection (d) of this section.

(d) An underground storage tank system may not be installed, repaired, or removed except by a duly registered underground storage tank contractor who either has or is an installer or an on-site supervisor who is licensed by the commission pursuant to this chapter at the site at all times during the critical junctures of the installation, repair, or removal.

(e) This section does not apply to situations where no license is required pursuant to §334.425 of this title (relating to Exceptions to License A and License B Requirements).

§334.415. License A and License B.

(a) An applicant who intends to participate in or supervise the installation or repair of UST systems shall apply for a License A.

(b) An applicant who intends to participate in or supervise the removal of UST systems shall apply for a License B.

(c) This subsection shall not prevent the applicant from obtaining both a License A and License B.

§334.416. Requirements for Issuance of License A and License B.

(a) Each installer or on-site supervisor desiring to obtain a License A or License B shall submit a completed application to the commission pursuant to §334.417 of this title (relating to Application for License A and License B).

(b) Each applicant shall pay the initial license application fee as required by §334.423 of this title (relating to Fee Assessments for License A and License B) upon submission of the application. An application submitted without the required application fee shall not be accepted.

(c) Each applicant shall be at least 18 years of age.

(d) Each applicant shall have at least two years of active experience in installation, removal, or repair, of underground storage tanks, underground utilities, or other engineering construction.

(e) Each applicant's qualifications shall meet the minimum requirements of this section, and shall be approved by the executive director before the applicant can take the examination required under §334.419 of this title (relating to License A and License B Examination).

(f) Subsequent to the executive director's approval of an applicant's qualifications, an applicant shall successfully complete the appropriate licensing examination.

(g) After December 1, 1991, each applicant for License A shall have completed 28 hours of training and education courses in the installation and repair of USTs.

(h) After December 1, 1991, each applicant for License B shall have completed 12 hours of training and education courses in the removal of USTs.

(i) The training and education courses prescribed in subsections (g) and (h) of this section shall be approved by the executive director and sponsored by educational or governmental institutions, or recognized organizations including, but not limited to:

- (1) Petroleum Equipment Institute;
- (2) American Petroleum Institute;
- (3) Steel Tank Institute;
- (4) National Association of Corrosion Engineers;
- (5) Fiberglass Petroleum Tank and Pipe Institute;
- (6) National Fire Protection Association; or
- (7) other nationally recognized organizations approved by the executive director.

(j) The training and education courses may include instructional courses, seminars, workshops, and conferences.

(k) The applicant shall submit a certificate of completion for the appropriate training and education courses required in §334.416(g) and (h) of this title (relating to Requirements for Issuance of License A and License B). The certificate shall be dated and signed by the designated sponsor.

§334.417. Application for License A and License B.

(a) An applicant for License A and B shall provide the following information:

- (1) the applicant's name, business address and telephone number, and permanent mailing address and telephone number;
- (2) the applicant's birth date and social security number;
- (3) a list of other professional registrations and licenses that the applicant holds from a governmental body within or outside of the State of Texas;
- (4) a statement of circumstances in which a license or registration has been previously suspended, revoked, or any disciplinary action resulting from other UST related activities within or outside of the State of Texas;
- (5) after December 1, 1991, a list and description of the training and education courses on USTs that the applicant has completed;

(6) sworn statements, on forms approved by the executive director, from at least four persons (three from clients not related by blood or marriage and one from a current or previous employer, or employer's representative), that have engaged the applicant or the applicant's employer within the previous 24 months to perform: UST installations, repairs, or removals; underground utilities; or other engineering construction. These statements shall attest to the applicant's character, knowledge of construction, and ability to supervise the construction activity. Such statements shall also include a description of the type of construction performed by the applicant; and

(7) a sworn statement by the applicant as to the authenticity of the information provided on the application.

(b) All applications for licensing shall be submitted on forms provided by the executive director.

(c) The applicant shall schedule an license examination within 120 days after the executive director's approval of the application.

(d) An application shall be denied without prejudice and the examination fee shall be forfeited, if the applicant fails to take the licensing examination within 120 days after the executive director approves the application. An applicant who has received a denial without prejudice may reapply for a license. The executive director may extend the 120-day examination period upon written request by the applicant and for good cause.

§334.418. Notification of Examination.

Upon receipt of a properly completed application as required by §334.417 of this title (relating to Application for License A or License B) and the examination fee required by §334.423 of this title (relating to Fee Assessments for License A and License B), the executive director shall inform the applicant within 30 days of receipt of the application as to whether the application has been approved. The executive director shall notify each applicant of the designated dates, times and places of the examinations as required by §334.419 of this title (relating to License A and License B Examination).

§334.419. License A and License B Examination.

(a) The License A and License B examinations shall each be divided into categories comprising specific UST subjects. The number of categories in the License A and License B examinations shall be determined by the executive director.

(b) Questions used in License A and License B examinations shall be derived from the applicable rules of this chapter and standards, instructions, and recommended practices published by organizations with expertise in various aspects of the installation, repair, or removal of underground storage tanks including, but not limited to:

(1) Petroleum Equipment Institute;

(2) American Petroleum Institute;

- (3) Steel Tank Institute;
- (4) National Association of Corrosion Engineers;
- (5) Fiberglass Petroleum Tank and Pipe Institute; and
- (6) National Fire Association.

(c) The rules contained in this chapter shall prevail as the definitive examination answer should a conflict arise between the rules of this chapter and the standards, instructions, and recommended practices of the organizations listed in subsection (b) of this section.

(d) The executive director shall offer and proctor the appropriate examination at a designated time and place. The examination shall be offered with increased frequency whenever more than 10 persons petition the executive director in writing.

(e) Within 30 days prior to a scheduled examination, an applicant may petition the executive director in writing requesting that an oral examination be administered. The executive director may consider substituting an oral examination for a written examination. An applicant petitioning for such examination must demonstrate to the executive director that the written examination would not provide a fair and equal test of the applicant's knowledge of underground storage tank installation, repair, and removal.

(f) The executive director shall notify an applicant of the results of the examination within 30 days of the administration of the examination.

(g) At any time within six months of the date the applicant is notified of the results of the examination, an applicant may personally inspect the examination in the commission's office during normal business hours for the purpose of assessing the accuracy of the grading.

(h) At any time within six months of the applicant's examination results, an applicant who does not successfully complete the examination may request in writing that the executive director furnish the applicant with an analysis of the applicant's performance.

(i) An examination shall be considered successfully completed when an applicant correctly answers 70% of the questions on each specific UST category of the examination as described in subsection (a) of this section.

§334.420. Issuance of License A or License B.

(a) After an applicant meets the requirements of §334.416 of this title (relating to Requirements for Issuance of License A or License B), the executive director shall issue the appropriate license to the applicant.

(b) The license shall not be transferable or assignable and shall be issued one time only.

(c) The executive director shall issue a wallet size card indicating the expiration date of the license.

(d) A duplicate license to replace a lost or destroyed license shall be issued by the executive director upon payment of the fee required by §334.423 of this title (relating to Fee Assessments for License A and License B).

§334.421. Renewal of License.

(a) All licenses will expire one year following issuance or renewal of the license.

(b) The executive director shall notify each licensee in writing of the impending license expiration at least 60 days before the expiration. The executive director shall furnish application forms for license renewal.

(c) A properly completed application for renewal shall be submitted to the executive director 30 days prior to expiration. The application must be accompanied by the following:

(1) evidence satisfactory to demonstrate compliance with the continuing education requirements of this section; and

(2) the renewal fee prescribed by §334.423 of this title (relating to Fee Assessments for License A and License B).

(d) The current license shall be valid until the executive director notifies the applicant of renewal or denial of the submitted renewal application provided a properly completed application for renewal was submitted at least 30 days prior to the expiration date of the license.

(e) If the license is not renewed within one year after the expiration date of the license, a new license shall not be issued until the person meets the requirements of §334.416 of this title (relating to Requirements for Issuance of License A and License B) and successfully completes a subsequent examination pursuant to §334.419 of this title (relating to License A and License B Examination).

(f) Upon proper completion of the license renewal process, the executive director shall issue a wallet size card indicating the expiration date of the license.

(g) The renewal applicant for License A shall complete at least eight hours of continuing training and education courses prior to renewal of the license.

(h) The renewal applicant for License B shall complete at least eight hours of continuing training and education courses prior to the renewal of the license.

(i) The training and educational courses required in subsections (g) and (h) of this section shall be approved by the executive director and sponsored by educational or governmental institutions or recognized organizations including, but not limited to, the following:

(1) Petroleum Equipment Institute;

(2) American Petroleum Institute;

- (3) Steel Tank Institute;
- (4) National Association of Corrosion Engineers;
- (5) Fiberglass Petroleum Tank and Pipe Institute;
- (6) National Fire Protection Association; or
- (7) other nationally recognized organizations.

(j) The renewal application shall submit a certificate of completion for the appropriate training and education courses required in subsections (g) and (h) of this section. The certificate shall be dated and signed by the designated sponsor's representative.

§334.422. Denial of License A or License B.

The executive director shall deny the issuance of a license or request for renewal based on the following factors, including, but not limited to:

- (1) when an applicant fails to achieve a passing grade on an examination as required in §334.419 of this title (relating to License A and License B Examination);
- (2) when an applicant is found to have provided fraudulent or deceptive information;
- (3) when an applicant fails to submit the required documentation as required by §334.417 of this title (relating to Application for License A and License B);
- (4) when an applicant fails to pay the appropriate fee pursuant to §334.423 of this title (relating to Fee Assessments for License A and License B); or
- (5) for other cause(s) which in the opinion of the executive director constitutes adequate ground(s) for denial.

§334.423. Fee Assessments for License A and License B.

(a) The following fee schedule for a License A and License B shall apply to installers and on-site supervisors:

- (1) examination fee - \$50;
- (2) initial license application fee - \$200;
- (3) annual license renewal fee - \$175;
- (4) late renewal fee -- assessed in accordance with Chapter 12 of this title (relating to Payment of Fees);

(5) duplicate license fee - \$10.

(b) The license applicant shall not pay more than \$200 for the initial license application fee and the examination fee.

(c) An applicant taking both the License A and License B examinations on the same day will be assessed a \$50 fee.

(d) A license renewal application shall be considered late when received by the executive director after the expiration date of the license and shall be subject to a late renewal fee assessed in accordance with Chapter 12 of this title.

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§334.424. Other Requirements for a License A and License B.

(a) All License A and License B installers and on-site supervisors shall notify the executive director in writing within 30 days of any change to the application including, but not limited to:

- (1) change of employer;
- (2) change of employer's mailing and physical address or telephone number; and
- (3) change of personal mailing and physical address or telephone number.

(b) A licensed installer or on-site supervisor subject to the provisions of this subchapter that is engaged in the installation, repair, or removal of USTs shall be required to comply with all applicable technical standards of Subchapter C of this chapter (relating to Technical Standards) and Chapter 313 of this title (relating to Edwards Aquifer).

(c) Compliance with the provisions of this subchapter by a licensed installer or on-site supervisor shall not relieve such licensee from the responsibility of compliance with all applicable regulations legally promulgated by the United States Environmental Protection Agency, United States Occupational Safety and Health Administration, United States Department of Transportation, Texas Air Control Board, Texas Department of Health, State Board of Insurance (including state fire marshall), Railroad Commission of Texas, Texas Department of Agriculture, State Comptroller, Texas Department of Public Safety, Texas Water Commission, and other federal, state and local governmental agencies or entities having appropriate jurisdiction.

(d) A licensed installer or on-site supervisor who offers to undertake, represents to undertake, or does undertake the installation, repair, or removal of an underground storage tank shall either be registered as a UST contractor pursuant to this subchapter, or be employed by a registered UST contractor.

§334.425. Exceptions to License A and License B Requirements.

A License A and License B shall not be required for an installer or on-site supervisor who conducts installations, removals, or repairs of UST systems when such systems are completely exempt from regulation

under §334.3(a) of this title (relating to Statutory Exemptions), or completely excluded from regulation under §334.4(a) of this title (relating to Commission Exclusions). Installers or on-site supervisors who conduct installations, removals, or repairs of underground storage tank systems regulated under Chapter 313 of this title (relating to Edwards Aquifer) are not exempt from the licensing requirements of this subchapter.

§334.426. Revocation, Suspension, or Reinstatement of a License A and License B.

(a) If the executive director determines good cause exists to suspend or revoke the license of an installer or on-site supervisor the executive director shall request that the commission schedule a hearing before the hearing examiner or the commission. Such hearing shall be held only after proper notice has been provided to the license holder. Factors upon which a license may be suspended or revoked include, but are not limited to:

- (1) failure by the holder of the license to follow the technical standards required for the installation, repair, or removal of tanks under this chapter;
 - (2) violations by the holder of the license of the provisions of this chapter;
 - (3) falsification of information or documents submitted to the executive director;
 - (4) disposal of contaminated soils or water in a manner which violates state or federal law;
- or
- (5) for other good cause as determined by the executive director.

(b) A license may be suspended for a period of up to one year, depending upon the seriousness of the offense(s). A license is revoked automatically upon a second suspension. At the request of the license holder, or for other good cause shown, the license may be suspended indefinitely by the commission.

(c) A license shall be revoked for a period of one year, after which the holder of the revoked license may reapply for reinstatement pursuant to the requirements of §334.416 (relating to Requirements for Issuance of License A and License B). The holder of license which has been revoked for a period of one year shall not have to meet the application requirements of §334.417(6) of this title (relating to Application for License A and License B) when applying for reinstatement. If a license is revoked a second time, the revocation shall be permanent.

§334.427. Notice of Hearings.

(a) Notice for any hearing required by §334.426 of this title (relating to Revocation, Suspension, or Reinstatement of a License A and License B) shall be issued not less than 20 days prior to the hearing.

(b) Transmittal of the notice shall be by certified mail, return receipt requested.

(c) Persons to be notified include, but are not limited to, the following:

- (1) the applicant or certificate holder;

(2) the complainant (if any); and

(3) any other person who may be affected by the outcome of the hearing, as determined by the executive director.

§334.428. Type of Hearing.

Any hearing related to the suspension or revocation of a License A and License B is subject to Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a).

§334.429. Penalties Effective On or After September 1, 1995.

(a) Any violation of the requirements of this subchapter shall be subject to enforcement including administrative, civil and/or criminal penalties as provided in §334.11 of this title (relating to Enforcement).

(b) Registered UST contractors and/or licensed UST installers/on-site supervisors may be held responsible and subject to enforcement including administrative, civil, and/or criminal penalties for any violation of the requirements of this chapter by them or by a person performing and/or supervising UST installation, repair or removal activities under their supervision or coordination.

(c) Any penalty assessed or order issued under this chapter is cumulative of any other remedies available to the commission.

Adopted October 11, 1995

Effective November 8, 1995